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## ***A Human Rights' Based Approach to Development'***

***New perspectives by taking  
cultural rights into account?***

*Text submitted to discussions by the Observatory of Diversity and Cultural Rights in the framework of the XIIIth Summit of the Francophonie held in Montreux, October 23<sup>d</sup> 2010<sup>2</sup>.*

### **10 years after the Declaration of Bamako**

**All Human rights guarantee respect for capacities, freedoms and responsibilities; in doing so, they make the development of each person and of each society possible.**

“Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized”  
*Universal Declaration of Human Rights, art. 28*

« We, ministers..... proclaim (...)

« that democracy for all citizens - including the poorest and most vulnerable among them – is first and foremost to be measured according to the scrupulous respect and full implementation of all civil, economic, political, social and cultural rights, and the mechanisms that guarantee them<sup>3</sup> »

*Bamako Declaration, 3,4.*

*Translation: Johanne Bouchard Neff  
November, 2011*



<sup>1</sup> ABDH – L’approche basée sur les droits de l’homme en développement”. The original French title plays on two possible readings, impossible to translate as such: we are considering a Human Rights’ based approach to development issues, but also the need to have a right based approach to human being, recognizing that each person is in a continuous process of development.

<sup>2</sup> Made possible with the support of the Friends of Fribourg University, in collaboration with the Swiss section of Amnesty international and the Fondation Hirondelle. The first version of 23/10/2010 has been slightly modified and remains submitted to comments and discussions.

<sup>3</sup> Free, unofficial translation.

It's not about bringing human rights in development or the Millenium development goals (MDG); it's about integrating these policies into a human rights based approach (HRBA).

### Issue at stake: human rights are a "political grammar"

1. **Each human right is both a mean and an end of individual and social development.** This double nature, final and instrumental, makes them a "political grammar": each fully implemented right, freedom and responsibility develops human resources that contribute to the respect of civil, cultural, environmental, economic, political and social balances<sup>4</sup>. Individual development and the development of societies are inseparable and constitute the first feature of a "human rights based approach" (HRBA hereafter)<sup>5</sup> : by explicitly using a HRBA when defining their aims and measuring their impact, all policies, in any given field, are meant to apply a strict, legitimate and concrete democratic logic.

Freedoms of speech, of association, of taking part in cultural life, of access to work... are fulfilling aims for each person as well as development factors for democratic societies.

2. **Human rights guarantee fundamental capacities;** they constitute the internal dynamic of each person's development, for him or herself and for society: they cannot be regarded as one out of many fields. The exercise of all universal, indivisible and interdependent rights and freedoms concerns every aspect of society.
3. **Human rights based approaches in development are clearly different from approaches based on needs.** For the sake of efficiency, approaches based on needs tend to favor sectorial, technical assistance and therefore fail to appreciate social complexity, sustainability and the interdependence of rights. Approaches based on needs that do take into account social complexity can be justified to tackle vital necessities for a limited time period, but they still have to be validated by a HRBA: the aim is to increase capacities and freedoms of individuals, not to reduce their needs. HRBA are relevant for all policies, whatever the area, the country and the level of governance<sup>6</sup>.
4. **The newly recognized importance of cultural rights** within the human rights' system can give new impulse to the recognition of the concrete capacities of each person within his or her environment. To face the challenges raised by globalization, poverty and violence and to give a new orientation to development, more attention needs to be dedicated to individual and collective capacity building processes that rest on available cultural resources.

<sup>4</sup> According to Amartya Sen's definition of development: « It is mainly an attempt to see development as a process of expanding the real freedoms that people enjoy. In this approach, expansion of freedoms is viewed as both (1) the *primary end* and (2) the *principal means* of development. They can be called respectively the « constitutive role » and the « instrumental role » of freedom in development." Amartya SEN, *Development as Freedom*, 1999, Chapter 2, p. 36.

<sup>5</sup> *Human Rights-Based Approach (HRBA)*. For an analysis of the different concepts of the HRBA, see: GREARDY Paul and ENSOR Jonathan. *Introduction*. In: GREARDY Paul & ENSOR Jonathan (Eds.), 2005. *Reinventing Development? – Translating rights-based approaches from theory into practice* (p. 1-40). London, New York: Zed Books Ltd ; Meyer-Bisch, Benoît, 2008, *Les approches basées sur les droits humains en développement*, Zürich, Nadel, [www.nadel.ethz.ch/Essays/MAS\\_2006\\_Essay\\_Meyer\\_Bisch.pdf](http://www.nadel.ethz.ch/Essays/MAS_2006_Essay_Meyer_Bisch.pdf)

<sup>6</sup> See *Ethical principles of international cooperation evaluated in terms of the effectiveness of human rights (Bergamo Document)*, DS12, [www.unifr.ch/iiedh/fr/publications/documents-de-synthese](http://www.unifr.ch/iiedh/fr/publications/documents-de-synthese), program run jointly by the UNESCO Chairs of Bergamo, Mexico and Cotonou : [www.unibg.it/struttura/struttura.asp?cerca=cattedra%20unesco\\_intro](http://www.unibg.it/struttura/struttura.asp?cerca=cattedra%20unesco_intro)

## Features of a HRBA

5. **Persons, their families and their communities are at the core at each step of the process.** No institution, no economic, social or cultural “law” and no reason of state can consider itself above human dignity or place this dignity between brackets. The persons are at the center, not only as beneficiaries but also as active stakeholders, for themselves and for others<sup>7</sup>.
6. **The aim is to increase individual capacities and freedoms, not to reduce needs.** Each human right guarantees fundamental capacities: these allow us to assume freedoms and responsibilities in intertwined social relations. The specific object of all and any human right is not a physical object but a free social relation (expression, education, information, food, association, health care, participation in cultural and political life, work... even thought).

If food is the object of the *need* to eat, the object of the *right* to food is the possibility for each person to take part in all dignity in a relation that allows him or her to feed him or herself and to feed others. The object of each human right is a social interaction.

7. **The complexity of interpersonal bonds is essential** (non compartmentalized approach). The principles of indivisibility and interdependence of human rights and the fact that their violations are just as interdependent impel us to take into consideration:
  - the civil, cultural, environmental, economic, political and social dimensions of each person's dignity
  - the capacity of each social system to insure human rights' implementation
  - The communication (non compartmentalized) between systems.
8. **This complexity cannot be reduced in case of emergency.** One cannot establish a hierarchy between human rights just as one cannot cut human dignity into pieces. Still, the internal logic of each human right allows different degrees of emergency to be considered in its specific implementation and entails, therefore, concrete criteria to define suitable strategies.

Whereas the effectiveness of the right to education can always be improved, since it has infinite aspects, “basic education” represents an urgent, imperative obligation that is universal and unconditional, fundamental to the exercise of all other human rights. The argument is just as valid for access to health care, to food and to adequate information.

9. **Connections between right holders and duty bearers are the first strategic requirement.** The capacities of right holders and of duty and obligation bearers need to be strengthened in parallel. In this sense, each relation between right / obligation represents an *entry point* into power relations<sup>8</sup>.

<sup>7</sup> A HRBA is often described using 7 principles: participation, accountability, non-discrimination, transparency, human dignity, empowerment and rule of law, giving the acronym PANTHER. These have been used in the context of the fight against hunger based on the right to food. See DE SCHUTTER, Olivier, *Countries tackling hunger with a right to food approach*, Briefing Note 01, May 2010, [http://www.srfood.org/images/stories/pdf/otherdocuments/20100514\\_briefing-note-01\\_en.pdf](http://www.srfood.org/images/stories/pdf/otherdocuments/20100514_briefing-note-01_en.pdf). See also GOLAY, Christophe, *The global food crisis and the right to food*, CETIM, Critical Report 3, December 2008, [http://www.cetim.ch/en/documents/report\\_3.pdf](http://www.cetim.ch/en/documents/report_3.pdf). These principles are more concretely displayed and operational through the obligations defined in the Human rights system.

<sup>8</sup> “[Rights] offer a sole tool to analyze both the actions of duty bearers and to frame the demands of rights holders.” (non-official translation), Benoît Meyer-Bisch, op. cit. p. 7.

## The input of cultural rights

**10. The exercise of cultural rights guarantees adequate consideration for the relations uniting each individual to his/ her environment<sup>9</sup>.** This implies respect for :

- each individual and each community's identity and for the specific contribution these can make ;
- their freedoms and capacities to choose their values while respecting the rights of others, and to choose the cultural resources they consider necessary for the exercise of their rights, freedoms and responsibilities ;
- their freedoms and capacities to organize themselves in democratic structures and institutions they have appropriated.

**11. Cultural rights are multifunctional binders: they guarantee accesses, give ways to freedoms and identify stronger responsibilities.** By giving access to others and to cultural works, cultural rights make *knowledge intersection* possible. Without it, no one can feel like somebody or be considered by others. A person isolated or deprived from the bonds he or she acknowledges and chooses is considered incapable, for this person cannot exercise freedoms nor belong to any society.

**12. Respect for cultural rights cannot be achieved without valuing cultural diversity.** Cultural diversity is created, maintained and developed by people and has to remain at their service. Exercising cultural freedoms implies having the possibility and capacity to choose amongst a diversity of quality cultural resources.

The right to language is not a right to be set apart from others but represent an access to a capacity which in turn opens the way to many others. Universal respect for this right cannot be achieved without valuing linguistic diversity.

**13. The exercise of cultural rights builds in to communications.** They allow each person to acquire culture as the first source of social wealth and give them the possibility to contribute to it. Any communication, with others, with one's self and through the media of works, is an exercise of these rights. Whatever the field concerned, strategic priority must therefore be given to the *rights to information and education* (formation), since access to any other rights is impossible without these two.

## Acceptability and operationality

**14. International legal instruments** enjoy growing recognition. Whichever philosophical foundation one gives to them, human rights have progressively become an international common ground for politics and law, and have developed monitoring instruments.

**15. Human rights form the threshold of open public debate.** *They are no morality in themselves but make up the threshold of all political morality.* They are no "western standards" but fundamental norms establishing the link between ethics and political activity. They merely define the "fundamental prohibitions" which are at the core of social dignity, insuring sustainable societies: the prohibition to kill, to torture, to steal, to censure, to exercise violence by refusing to heal, to educate, etc.

<sup>9</sup> Voir *Les droits culturels, Déclaration de Fribourg*, (2007) sur le site de l'Observatoire ; P. Meyer-Bisch et Mylène Bidault, *Déclarer les droits culturels. Commentaire de la Déclaration de Fribourg*, Zurich, 2010, Schulthess, Bruylant.

- 16. Human rights' universality implies a responsibility shared by all stakeholders,** whatever their nature. This is the basis of strong – or participative – democracies guaranteed by States. Such a responsibility is crosscutting and does not stop with the fulfillment of limited, direct obligations: it implies an *obligation to interact*. No stakeholder can legitimately remain indifferent when faced with misery, especially when this misery is the result of insufficient actions from stakeholders one is related to.
- 17. Systems of indicators measuring quality can be developed from human rights.** The effectiveness of each right /freedom /responsibility of a person has positive effects on the implementation of other rights (principle of interdependence) and so represents added value for society. Each right can be expressed in terms of evaluation criteria, making it possible to develop a battery of indicators to measure not only results but also capacities and the general effectiveness of rights<sup>10</sup>.
- 18. The fundamental character of human rights guarantees priority over other sets of norms.** By evaluating the implementation of fundamental rights, we can measure the quality of policies. Subordinating rules and standards to these measurable aims allows us to avoid the vicious impacts of normative behaviors and procedures that cast shadow over human vocations and objectives. Quality controls obsessed with procedures and schedules to the point of leaving fundamental goals aside are far too common and should be systematically challenged.
- 19. Democratisation of international relations.** This approach is legitimate both at the national and international political levels. Based on universally recognized binding principles, it clearly anchors the democratic requirement necessary to achieve peace and justice in all international cooperation policies. Democratic States cannot tolerate different applications of fundamental principles between internal and external policies.

## Consequences and propositions for demanding democratic cooperation

- 20. Priority to participative observation.** The first obligation towards human rights is the obligation to “respect”, meaning to give appropriate consideration and to refrain from infringement. This implies knowledge of the situation and recognition of existing dynamics. Priority should therefore be given to mechanisms that ensure permanent observation of and effective participation in each human right. Listening and observing those who are victims, witnesses and stakeholders is what is at stake. To *observe* is here to be understood in both its active meanings: observe a situation and observe the law.
- 21. Look for the interdependence of violations.** Poverty and extreme poverty are typical situations where chain violations and multiple discriminations are to be found. It is essential that we identify the dominant types of chain reactions in order to dedicate the most attention to their untying.

The majority of Swiss teenagers without professional training and depending on social security come from families who themselves depend on social security. Priority must be given to breaking this transmission by concentrating resources on these children and teenagers whilst giving support to their parents. The means invested this way have important multiplying effect.

<sup>10</sup> On the four capacities – acceptability, accessibility, adaptability and availability – see for example the research conducted in Burkina Faso with the support of the Swiss cooperation : *Measuring the right to education*, (collectif IIEDH/APENF) (J-J. Friboulet, A. Niameogo, V. Liechti, C. Dalbera, P. Meyer-Bisch), Paris/Zurich : UNESCO/Schulthess, 2006.

- 22. Look for « winning combinations » of rights.** Analyzing, case by case, the chain reactions is necessary to build strategies that multiply the added value and give priority to simultaneous implementation of “groups of rights” that strengthen each other.

The couple right to education / information is a prerequisite in all strategies, whatever the field concerned. We could also mention less famous (and often ignored) combination such as that of the right to food and to property.

- 23. The interaction between public, private and civil stakeholders.** No State is able, only by its own means, to respect all human rights, but it has the obligation to guarantee that the conditions making it possible for all duty bearers to assume their responsibilities are provided. Interdependent rights require non compartmentalized sectors and interactions between different private (businesses), civil (NGO and associations) and public (States and their institutions) stakeholders. To guarantee human rights’ implementation, States have the obligation to respect, protect and promote these interactions within each of their policies.
- 24. Permanent, shared evaluation and efficient alert systems.** Interactive observation before, during and after political actions allows us to gather signs and expressions as well as to continuously improve the quality of indicators measuring the implementation of one or many human rights. This is a condition for adequate prevention and response to violations.
- 25. International cooperation.** Peer monitoring, as it is for example established through the Universal Periodic Review (UPR), applies the principle of international responsibility in the field of human rights. At transnational level, this principle is applied through the development of institutional networks (from one professional corpse to another) in the framework of the OIF. For this cooperation to benefit from and build upon the best possible knowledge intersections, researchers and representatives of all three types of stakeholders (private, civil and public) must be ensured participation in these networks.

*“We, ministers..... proclaim (...)*

*“that democratic principles in all their political, economic, social, cultural and legal dimensions have to be equally considered in international relations”<sup>11</sup>*

*Bamako Declaration, 3,7.*

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<sup>11</sup> Free, non official translation